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U.S. Wins Telecommunications Case against Mexico in WTO

Decision Hands American Families Real Savings:
Industry Estimates Consumers Overcharged More than $1 Billion since 2000

WASHINGTON - U.S. Trade Representative Robert B. Zoellick announced today that a World Trade Organization (WTO) panel has agreed with the United States that Mexico's current regime for international telecommunications violates Mexico's WTO obligations. Mexico's international telecommunications rules require U.S. carriers to connect with Mexican telecommunications providers in order to complete calls from the United States to Mexico (known as "interconnection") and grants Mexico's dominant carrier, Telmex, the exclusive authority to negotiate the rate for connecting calls into Mexico.

About 80% of all cross-border calls between the United States and Mexico originate in the United States, where price competition between U.S. carriers has led to much lower rates for consumers. Given the high volume of calls from the United States to Mexico (second only to calls to Canada), U.S. carriers have estimated that Mexico's artificially high interconnection charges have resulted in excess payments by U.S. companies and consumers of well over $1 billion since 2000.

"Mexico has provided a single, dominant company with a government mandate to set excessive rates for international calls to Mexico," Zoellick said. "Today's decision is an important victory for American consumers and for the telecommunications industry, and provides an excellent example of how WTO disciplines can provide concrete benefits to American consumers and businesses. The successful implementation of this decision will lead to lower costs for American and Mexican families with family and friends across the border and eliminate unnecessary costs for businesses and telecommunications providers."

The WTO panel sided with the United States on most of the major claims in this dispute. Specifically, the panel found that:

(1) Mexico breached its commitment to ensure that U.S. carriers can connect their international calls to Mexico's major supplier, Telmex, at cost-based rates.

(2) Mexico breached its obligation to maintain appropriate measures to prevent its dominant carrier from engaging in anti-competitive practices, by granting Telmex the exclusive authority to negotiate the rate that all Mexican carriers charge U.S. companies to complete calls originating in the United States.

(3) Mexico breached its obligations under the WTO Services Agreement, the GATS, by failing to ensure that U.S. carriers operating within Mexico can lease lines from Mexican carriers (and thereby provide services on a resale basis). The panel concluded, however, that Mexico may prohibit U.S. carriers from using leased lines in Mexico to complete calls originating in the United States.

Background

In order to place a telephone call from the United States into another country, U.S. carriers must generally connect into that country's telecommunications network. This is commonly done by either interconnecting with a foreign carrier and then paying the carrier for its assistance in completing the call, or by leasing a telephone line in the other country and routing calls over that leased line. Mexico prohibited U.S. carriers from leasing lines to bring calls directly into the domestic network and granted Telmex the exclusive authority to negotiate interconnection rates for cross-border traffic on behalf of *all* Mexican carriers. The elimination of all competition within Mexico for international interconnection resulted in rates significantly above cost and significantly above the rates charged in countries with a competitive telecommunications market.

The United States has had concerns regarding Mexico's implementation of its telecommunications commitments for several years. The United States held formal WTO consultations with Mexico in October 2000, and again in January 2001. These consultations were able to achieve significant progress with respect to Mexico's domestic telecom market including a reduction in domestic interconnection rates and measures to regulate Telmex as a dominant carrier. Mexico, however, failed to address U.S. concerns with Mexico's anti-competitive International Long Distance Rules. As a result, the United States requested a WTO panel in February 2002 to address the outstanding international long-distance issues, including the above cost interconnection rate that Telmex charges U.S. carriers. The panel was established on April 17, 2002.

Under WTO rules, both Mexico and the United States have the opportunity to appeal today's report. If the decision is not appealed, it will be adopted by the WTO, with the recommendation that Mexico comply with the decision. If Mexico fails to comply with the decision, the United States will be allowed to take retaliatory measures.

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